

## **MINUTES**

### **UTAH SOLID AND HAZARDOUS WASTE CONTROL BOARD MEETING**

**November 13, 2003**

**Board Members Present:**

Judy Lever, Chair; Craig Anderson, Vice-Chair; Dianne Nielson; Lowell Peterson; Tom Probert; William Doucette; Scott Widmer; Kenneth Alkema; Cullen Battle; John Newman; Carlton Christensen.

**By Telephone:**

Michael Brehm

**Staff Members Present:**

Scott Anderson, Acting Executive Secretary; Dale Marx, Acting UST Executive Secretary; Marilyn Ratcliffe; Arlene Lovato; Rusty Lundberg; Martin Gray, Tom Ball; Otis Willoughby; Allan Moore; John Waldrip; Don Verbica; David Wheeler; Patrick Sheehan

**Others Present:**

Elizabeth Lowes, Joe Majestic, Craig Galli, Tim Orton, Clint Warby, Richard Rathbun, Dan Shrum, Raymond Wixom, Jim Wangsgard.

- I. The meeting was called to order at 1:05 p.m.
- II. It was moved by Craig Anderson and seconded by Scott Widmer, and unanimously carried that the minutes for October 9, 2003 be approved.
- III. TOCDF Consent Decree - Tom Ball

The Division has negotiated a settlement of Notice of Violation #0211025, which was issued to Deseret Chemical Depot, the Chemical Agent Munitions Disposal System, and the Tooele Chemical Demilitarization Facility, in December 2002. The public comment period for this negotiated settlement began on November 4, 2003, and will end on December 3, 2003. It is anticipated that this item will be brought before the Board in the December 11, 2003 meeting for the Board's action.

The NOV contained 41 violations that were documented through self-reports from the facilities and during inspections performed by Division staff. A total penalty in the amount of \$108,269 has been negotiated for settlement of the NOV.

Carlton Christensen asked what the difference is between a Judicial Decree and a Consent Order. Mr. Ball explained that a Judicial Consent Decree is filed as a complaint with the court, and is signed by a judge. A Stipulation and Consent Order is done through the Board only. Mr. Christensen also asked if there is any advantage to either party with a Judicial Consent Decree. Mr. Ball responded that there is some advantage to the facility because it would prevent citizens from filing a lawsuit regarding the non-compliance identified in the NOV.

John Newman asked the staff to prepare a summary explaining the difference between Judicial Consent Decrees and Stipulation and Consent Orders. He felt that Mr. Christensen's question was valid, and those on the Board who have already addressed this issue could use a reminder. Raymond Wixom of the AG's Office indicated he had previously prepared a summary of the differences between the two documents and processes and would provide it to the Board.

#### IV. Underground Storage Tanks - Dale Marx

<b>UST STATISTICS REPORT</b>	<b>September</b>	<b>October</b>	<b>Difference from September</b>
Number of current tanks with a Certificate of Compliance	3,967	3,963	(4)
Number of Tanks with a Certificate of Compliance on the PST Fund	3,537	3,485	(52)
Number of tanks regulated	4,162	4,164	2
Number of LUST Sites closed to date	3,631	3,645	14
Total PST sites with claims or expected claims	481	482	1
PST Fund Balance	(\$70,459,385.00)	(\$63,936,780.00)	(\$6,522,605.00)
PST Assets Total	\$10,872,750.03	\$10,439,184.58	(\$433,565.45)
Loan Fund – Total Loans Made to Date	68	68	0
Total Amount Loaned to Date	\$1,847,797.60	\$1,847,797.60	\$0.00

Smith's Food and Drug Centers, Inc. stores have opted off the PST Fund and will be self-insuring all their underground storage tanks.

The PST Fund Actuarial Report has been completed. Estimated fund and equity balances indicate that the PST Fund will not have enough cash to pay all of the claims in the year 2009. A copy of the Executive Summary of the PST Fund Actuarial Report will be provided to the Board members at their next meeting.

The UDEQ/DERR has been invited by the U.S. Environmental Protection Agency to submit a proposal to request available Federal Brownfields Grant monies. The grant

money requested amount is \$200,000.00, and will be used to assess petroleum-impacted or other contaminated properties for potential redevelopment.

It is anticipated that proposed rule changes will be brought to the Board regarding the low interest loan fund.

V. Used Oil Program - David Wheeler

A. Stipulation and Consent Order between the Board and Valley Oil Transportation, Inc.

The Division has negotiated with Valley Oil to resolve the Notice of Violation (NOV), and a Stipulation and Consent Order (SCO) has been agreed upon. Valley Oil will pay \$11,920 over a period of one year in monthly installments.

A 30-day public comment period on the proposed SCO was held from September 18 to October 17, 2003. No comments were received.

**\*\*\*It was moved by Carlton Christiansen and seconded by Craig Anderson that the Stipulation and Consent Order between the Board and Valley Oil Transportation, Inc. be approved.**

B. Proposed Stipulation and Consent Order between the Board and Safety-Kleen

Safety-Kleen is a permitted used oil transporter located at 1066 South Pioneer Road, Salt Lake City, Utah. During a scheduled inspection on February 12, 2003, it was found that Safety-Kleen was using expired halogen test kits to determine whether used oil being transported had been mixed with hazardous waste. A Notice of Violation was issued to Safety Kleen on July 25, 2003.

To resolve the NOV, a proposed SCO has been negotiated with Safety-Kleen. Under the terms of the proposed SCO, Safety-Kleen will pay a penalty of \$3,600.

A 30-day public comment period on the proposed SCO is being held from November 7 to December 6, 2003.

This was an information item and will come before the Board in another Board meeting.

VI. Commercial/Federal Facilities - Don Verbica/Otis Willoughby

Kenneth Alkema and Cullen Battle declared conflict of interest concerning the Envirocare issues.

Dan Shrum, Envirocare Permitting & Compliance Manager, presented the following variance requests to the Board.

A. Site-specific treatment variance request for mercury (D009)

Envirocare has requested a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat a waste stream with high subcategory mercury (D009). This waste stream consists of approximately 85 cubic feet of sludge that has a total mercury concentration greater than 260 parts per billion. Typically, mercury is treated by using IMERC (incineration) or RMERC (retort/roasting followed by mercury recovery). In this instance, the residual mercury would be radioactive and could not be used again. Envirocare is proposing to perform a stabilization treatment so that they can get the concentrations below the 0.2 parts per million TCLP standard. The EPA determined that, in situations of stabilized high sub-category mercury, recovery of mercury is not appropriate for mixed waste, and that an alternative method should be pursued. Also, EPA recommended that Envirocare pursue site-specific treatment variances.

This request, if approved, would allow Envirocare to treat this waste using an amalgamation (stabilization) process as the primary treatment process without first separating the mercury from the matrix. All other contaminants associated with this waste stream would be treated using Envirocare's permitted stabilization methods to meet Land Disposal Restrictions and meet disposal requirements at the facility. Final disposal of the waste is proposed to occur in the Mixed Waste Landfill Cell at Envirocare.

A public comment period on this variance request began on October 30 and will end on November 28, 2003. A public hearing to receive comment will be held on Tuesday, November 18, 2003, at 7:00 p.m. in the Tooele County Courthouse.

This was an informational item only and will require Board action in the December 11, 2003 Board meeting.

B. Site-specific treatment variance request for beryllium dust (P015)

On October 22, 2003, Envirocare of Utah submitted a request to the Executive Secretary of the Utah Solid and Hazardous Waste Control Board for a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat beryllium dust (P015).

On November 3, 2003, Envirocare rescinded this request because the waste's generator changed management plans and the waste is no longer destined for Envirocare.

C. Site-specific treatment variance request for benzyl chloride (P028) and benzenesulfonyl chloride (U020).

Envirocare has requested a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat benzyl chloride (P028) and benzenesulfonyl chloride (U020)

This is a very small waste stream, with the volume being less than 10 gallons. This waste is a mixture of laboratory chemicals from Rocky Flats. The waste has been stabilized using cement to make it less hazardous. The waste now consists of several small cement-like blocks.

This treatment variance request, if approved, would allow Envirocare to encapsulate the blocks of waste in a polyethylene coating to retard leachability and then dispose of the waste. All other contaminants associated with this waste stream are below Land Disposal Restrictions and meet disposal requirements at the facility. Final disposal of the waste is proposed to occur in the Mixed Waste Landfill Cell at Envirocare.

A public comment period on this variance request began on October 30 and will end on November 28, 2003. A public hearing to receive comment on the variance request will be held on Tuesday November 18, 2003, at 7:00 p.m. in the Tooele County Courthouse.

This issue will be presented in the December 11, 2003 Board meeting for Board action.

D. Site-specific treatment variance for hydrogen fluoride (U134).

Envirocare has requested a one-time, site-specific treatment variance from the Utah Hazardous Waste Management Rules to treat and dispose hydrogen fluoride (U134). This waste is approximately 35 thousand cubic feet of contaminated debris, which was accumulated during the deactivation/decommissioning activities at the Rocky Flats facility. The waste that Envirocare proposes to receive is comprised of personal protective equipment (PPE), tools, paper, plastic, rags, wood, and other miscellaneous debris associated with cleanup operations. This debris has come into contact with waste containing hydrogen fluoride. The debris doesn't contain hydrogen fluoride, but by rule is classified as U134. The specified treatment is neutralization. However, this treatment was designed for liquid waste streams and is not appropriate for debris.

This treatment variance, if approved, would allow Envirocare to dispose of this waste that carries the U134 waste code without neutralization. Analysis of the waste indicates that there is no U134 present; the code is simply carried forward because the specified treatment is based on a technology rather than a numerical standard. Any other contaminants associated with this waste stream already meet the Land Disposal Restrictions and meet disposal requirements at the Facility. Final disposal of the waste will occur in the Mixed Waste Disposal Cell at the Envirocare Mixed Waste Facility.

This was an information item and will come before the Board for its approval at the December meeting.

## VII. Other Business

The Board was given copies of a letter sent to Judy Lever and Dennis Downs by Cullen Battle, a member of the Utah Solid and Hazardous Waste Control Board. The letter raised several issues regarding variance requests in general and suggested some criteria the Board could consider in granting variance requests.

John Newman, Kenneth Alkema, and Judy Lever were supportive in having further discussions concerning variances.

Scott Anderson pointed out that the criteria suggested by Mr. Battle for variance approval were for solid waste only and that there are differences in variances, i.e., solid waste, hazardous waste, site-specific treatment variances and that they could not all be addressed in the same way. He informed the Board that a representative of the AG's office will address this issue in the January Board meeting, and that the information presented would be an appropriate basis for further discussions.

Mr. Anderson also suggested that the executive summaries given to the Board could be expanded to explain the Division's rationale for recommending approval of variance requests.

#### B. December Board meeting

Judy Lever asked the Board if they would be available for the December 11, 2003 meeting. There were none who declared their unavailability and so Ms. Lever felt there would be enough for a quorum.

VIII. The next Board meeting will be held December 11, 2003 at 1:00 p.m., in the DEQ Building #2, Conference Room #101.

IX. Adjourned at 2:00 p.m. and reconvened at 2:30 p.m. at the Chevron Refinery. The Board also visited the Golden Eagle facility. Minutes from the visit to these two facilities are attached.

### **November 13, SHW Board Facility Tours**

**Board Members present for the Chevron Tour:** Judy Lever, Craig Anderson, Dianne Nielsen, Tom Probert, John Newman, Carlton Christensen, Scott Widmer (Tour Leader), Ken Alkema, and Cullen Battle. Other present included Richard Rathbun (AG's Office) and Allan Moore, David Wheeler, and Pat Sheehan(Division Staff).

Scott Widmer led the Board Member on an auto tour of the Chevron Refinery. Two vans were utilized, and a general tour of the facility was conducted. Board Members were able to see the main operations of the refinery.

**Board Members present for the Golden Eagle Tour:** Judy Lever, Craig Anderson, Dianne Nielsen, and Tom Probert. Other present included Allan Moore, David Wheeler, and Pat Sheehan (Division Staff).

Merrill Maughn of Golden Eagle lead the members of the Board on a walking tour of the facility. He showed the general process of the facility, used oil storage area and procedures for waste oil acceptance. After the walking tour member returned to the main office where questions concerning the availability of used oil, Golden Eagle storage capacities, and general used oil questions were discussed further.